

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.20932 of 2006

DATED 13.10.2006

Between:

A.Siva.

..... PETITIONER

versus

The Tirupati Municipality, represented

by its Commissioner, Tirupati,

Chittoor District and another.

..... RESPONDENTS

WRIT PETITION NO.20932 of 2006

ORDER:

The matter is coming up for admission today.

2. Heard the learned counsel for writ petitioner and also the respective learned Standing Counsel representing the respondents 1 and 2.

3. The Writ Petition is filed for a Writ of Mandamus declaring the inaction of the 1st respondent in protecting the rights of the petitioner to run the STD Booth as arbitrary, illegal, unjust, without the authority of law and in violation of the fundamental rights guaranteed under Articles 14, 19, 21 and 300A of the Constitution of India and also in violation of the provisions of the Municipal Laws and consequently direct the 1st respondent to give effect to its proceedings ROC.No.4632/05-01, dated 29.8.2005 and pass such other suitable orders.

4. It is stated that the petitioner is a Graduate and unemployed and as he could not get any job, he applied to the 1st respondent on 19.7.2005 for allotment of a site to put up STD Booth and also one rupee coin box. The 1st respondent had allotted its place measuring 4x4 abutting the Railway Station wall opposite to the 1st choultry

belonging to Tirumala Tirupati Devasthanam. The site was allotted to the petitioner by 1st respondent vide its proceedings ROC.No.4632/05-01, dated 29.8.2005 and the petitioner was directed to pay a sum of Rs.200/- per month as rent to the 1st respondent and he was also directed to take No Objection Certificate from the traffic police. It is also stated that on the strength of the above proceedings, the petitioner paid a sum of Rs.1,000/- on 8.9.2005 towards the rent for the months of August to December, 2005 and occupied the site, which had been allotted to him by the 1st respondent. It is also further stated that the petitioner obtained electricity connection to the schedule site by paying relevant deposit and charges in favour of the Divisional Engineer (Electrical) Operation to the Southern Power Distribution Company of Andhra Pradesh Limited, i.e., Andhra Pradesh Central Power Distribution Company Limited. Thus, the petitioner had put up STD Booth in the place allotted to him by the 1st respondent. It is asserted that the allotted place is the property of the 1st respondent and thus the petitioner has been in possession and enjoyment of the same. It is also stated that on 4.11.2005 at about 5 PM, the 2nd respondent along with his men and subordinates came to the STD Booth and tried to remove the same from the place allotted to him by the 1st respondent and the same was resisted by the petitioner. It is also stated that the 2nd respondent wrote a letter dated 7.11.2005 contending that the 1st respondent had illegally leased out the property in favour of the petitioner. On enquiry, the petitioner was informed that the 2nd respondent had written a letter to the 1st respondent and the 1st respondent appointed a Surveyor to survey the property allotted to the petitioner and the Surveyor also submitted his remarks on 11.11.2005 to the 1st respondent. The Surveyor after surveying the property had remarked that the land that has been allotted to the petitioner by the 1st

respondent belongs to the 1st respondent. It is also stated that when the officials of the 2nd respondent tried to interfere with his possession, the petitioner filed a suit OS.No.1766 of 2005 on the file of Principal Junior Civil Judge, Tirupati for the relief of permanent injunction and prayed for interim relief, but it is stated that such interim relief cannot be granted. It is also stated that once again the officials of the 2nd respondent unofficially threatened the petitioner to evict him from the place on 30.9.2006 and they had also in a high-handed manner moved the STD Booth of the petitioner to the opposite side of the road from the place allotted to him. Immediately the petitioner rushed to the office of the 1st respondent, who has been receiving the rents from the petitioner, and requested him to protect his interest in view of the allotment made to him.

5. As can be seen from the facts of the case, the controversy appears to be in between the 2nd respondent and the 1st respondent. The fact that some temporary permission on certain conditions had been granted by the 1st respondent in favour of the petitioner is not in serious dispute. It is no doubt stated in the affidavit filed in support of the Writ Petition that the officials of the 2nd respondent unofficially had moved the STD Booth to the opposite side of the road. Be that as it may, the fact remains that there is permission granted by the 1st respondent-Municipality to the petitioner. In view of the facts and circumstances, despite several of the facts narrated above, this Court is of the considered opinion that the 1st respondent-Municipality is bound to follow the procedure as per law in this regard. Hence, the right of the petitioner to run the STD Booth, despite the shift, not to be disturbed by the 1st respondent except by following due process of law. It is made clear that the petitioner is at liberty to raise appropriate objections relating to this aspect in the event of the 1st respondent

taking further steps like putting on notice relating to this aspect on the petitioner and the 1st respondent is also at liberty to take a decision in this regard in accordance with law. Till a decision is taken in this regard, 1st respondent to maintain status quo existing as on today.

6. With the directions indicated above, the Writ Petition is disposed of. No costs.

13.10.2006

SSR